

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA,

Plaintiff,

vs.

Case No. 05-CV-0329-GKF-PJC

TYSON FOODS, INC., *et al.*

Defendants.

**DEFENDANTS' JOINT MOTION FOR EXPEDITED CONSIDERATION OF
THE PLAINTIFFS' MOTION FOR LEAVE TO SERVE A SUPPLEMENTAL
EXPERT REPORT BY DRs. COOKE/WELCH (DKT. # 1826),
AND INTEGRATED BRIEF IN SUPPORT THEREOF**

COME NOW Defendants, and for their Joint Motion for Expedited Consideration of the Plaintiffs' Motion for Leave to Serve a Supplemental Expert Report by Drs. Cooke/Welch (Dkt #1826), state as follows:

Defendants assert that expedited consideration of the underlying Motion (and Defendants' Joint Response thereto) is warranted given the following present circumstances:

1. During the course of discovery, Plaintiffs have repeatedly violated the Court's Orders with regard to the timing and content of their experts' disclosures and reports;
2. Plaintiffs have taken the position that their experts are entitled to offer untimely supplemental reports and testimony at trial that merely bolsters the reports they previously submitted.
3. Plaintiffs' late production of the supplement would disrupt the scheduling orders of the Court by adding new opinions at a time when Defendants will be unable to respond appropriately due to their corresponding expert reports being due on January 30, 2009 [Dkt. No. 1787], and it will severely prejudice Defendants' ability to fully discover Plaintiffs' expert evidence in a time a manner such that Defendants could properly prepare their case for trial, as allowing the supplement would open the door to further supplements and additional abuses of the expert disclosure and reporting requirements under the Federal Rules of Civil Procedure and the Court's Scheduling Orders.

Defendants assert that the aforementioned matters raised in the underlying Motion are therefore significant and time-sensitive. Likewise, Defendants assert that these matters are causing them great prejudice as well as harm to their due process rights, which justifies the Court granting their request for expedited consideration.

WHEREFORE, Defendants request the Court grant the instant Motion and take up the underlying Motion at the earliest time the Court's docket will allow.

Respectfully submitted,

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I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

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